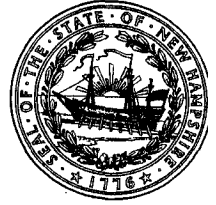




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

August 8, 2005

Walter E. Murray, Jr.
193 Union Square
Milford, NH 03055

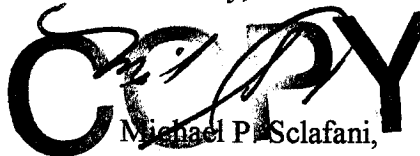
Re: Docket No. AF 05-027 Motion to Accept Settlement Agreement

Dear Mr. Murray:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,


Michael P. Sclafani,
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Tom Beaulieu, DES WMD
Susan Hanamoto, DES WMD

Walter E. Murray, Jr.
193 Union Square
Milford, NH 03055

Re: Union Square Service Center,
Milford, NH- UST ID#0-111963

ADMINISTRATIVE FINE
No. AF 05-027

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Walter E. Murray, Jr. parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Walter E. Murray, Jr. is the registered facility owner of four underground storage tanks ("UST") at the Union Square Service Center facility ("the Facility"), further identified as UST # 0-111963, located on real property at 193 Union Square, Milford, NH ("the Property").
3. On April 20, 2005, the Division issued Notice of Proposed Administrative Fine No. AF 05-027 ("the Notice") to Walter E. Murray, Jr. seeking fines totaling \$1,800 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. The Notice cited Mr. Murray for violating Env-Wm 1401.13(a) for failing to tightness test the 500-gallon #2 fuel oil UST since November 9, 1989. Pursuant to Env-C 607.04(a) the Division sought a fine of \$1,000.
5. The Notice further cited Mr. Murray for violating Env-Wm 1401.25(d) for failing to properly install and maintain overfill protection equipment on all four UST's. Pursuant to Env-C 607.05(j) the Division sought a fine of \$200 per requirement not met, or \$800 for the Facility.
6. In order to settle this matter, the Division and Mr. Murray have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
7. Of the proposed fine, in the amount of \$1,800, 20% or \$360 shall be suspended due to this being a one-time unintentional violation. An additional 20% or \$360 shall be suspended due to Mr. Murray's good faith effort to return this facility to compliance. An additional 20% or \$360 shall be suspended due to the Facility's small business status.
8. The suspended portion of the proposed fine, in the amount of \$1,080 is contingent upon Mr. Murray maintaining the subject UST facility in compliance with Env-Wm 1401 for a period of two years from the date of the execution of this Agreement. If Mr. Murray fails to maintain

compliance during the two-year period, the suspended portion of the fine, in the amount of \$1,080 shall become due and payable immediately. If Mr. Murray maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

9. Mr. Murray agrees to pay the remaining \$720 upon execution of this Agreement by Walter E. Murray, Jr.

10. Payment under Paragraph # 9 and any payment that becomes due pursuant to Paragraph #8 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

11. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

12. By executing this Agreement, Mr. Murray waives his right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

13. The effective date of this Agreement will be the date on which it is signed by Mr. Murray, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

14. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

7/19/05

Date

Respectfully submitted

COPY

Walter E. Murray, Jr., Owner

DES Waste Management Division


Anthony P. Giunta, P.G., Director

8/2/05
Date

This Motion to Accept Settlement Agreement is granted this 5th day of August, 2005.


Michael P. Nolin, Commissioner
Department of Environmental Services